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Pseudo-Quintilian's Major Declamations: Beyond School and Literature

Author(s): Bé Breij

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BÉ BREIJ

## Pseudo-Quintilian's *Major Declamations*: Beyond School and Literature

*Résumé:* Outre exercice rhétorique et genre littéraire en soi, la déclamation a une troisième fonction, que l'on pourrait intituler "situational ethics": le déclamateur doit se mettre dans la peau d'un caractère et répondre aux problèmes éthiques qui se posent pour ce caractère. Dans cette contribution il est montré, au moyen de la notion *pietas*, comment ces trois fonctions se présentent ensemble dans les *Declamationes maiores*.

Keywords: *Major Declamations*, situational ethics, rhetorical exercise, literary composition, *pietas*

I n his introduction Antonio Stramaglia points out the dual nature of the *Major Declamations*: they can be conceived as exemplary rhetorical exercises, but also as autonomous literary compositions. To these two capacities can be added a third, which is closely connected with both the others and common to nearly all extant declamations: declamatory themes offer the authors scope for "situational ethics." Transcending juridical technicalities and positing extreme cases, they force prospective speakers to adopt a particular social role (rich man, poor man, stern father, powerless son, put-upon mother, etc.) in which to grapple with an ethical dilemma. To make their plea convincing, the authors—be they students or *rhetores*—must investigate the position of their own persona and that of their opponent, as well as the conflicting juridical and ethical norms which have given rise to the dilemma. Family and sexual conflict, conceptions and problems of private and social behaviour, ideas of the self and personal obligations—these are the main issues addressed in declamations according to Mary Beard. She states that they "provide a focus for the re-presentation and

constant re-resolution of central Roman/human conflicts that everyday social regulations do not (and *can* not) solve; they offer an arena for learning, practising and recollecting what it is *to be and think Roman*.<sup>1</sup>

This process works both ways, as Margaret Imber emphasises: "Student declaimers actively contributed to the ideological tradition that was itself shaping their own identities."<sup>2</sup>

This facet of declamation manifests itself most clearly when ethical concepts are introduced to furnish moral criteria or a moral dilemma; but it never occurs in isolation from declamation's educational and literary aspects. To illustrate how this works in practice, I have chosen a concept that figures in fourteen of the nineteen *Major Declamations*<sup>3</sup> and is moreover an essential ingredient of Roman thought and society: *pietas*. After a brief introduction to *pietas* as a general notion, I will discuss its significance in Roman rhetoric before demonstrating its principal applications in the *Major Declamations*.

## PIETAS

*Pietas* derives from *pius*, thought to be cognate with *purus*, "pure" or "clean"; it denotes the state of having conscientiously fulfilled one's duties. Its oldest use, predating the Roman state, is religious, initially referring to one's duties towards the family gods and later including all religious obligations. However, when by Cicero's time the word *religio* ("conscientiousness"; "religious awe") began to be used as a synonym, *pietas* came to include other areas in which a sense of duty and responsibility was paramount: the family and the state. In his early work *De Inventione* Cicero classifies both concepts under fundamental, self-evident *ius naturae* before he defines them:

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<sup>1</sup>Mary Beard, "Looking (Harder) for Roman Myth: Dumézil, Declamation and the Problems of Definition," in F. Graf, ed., *Mythos in mythenloser Gesellschaft: das Paradigma Roms* (Stuttgart: Teubner, 1993), 44–64 (p. 56).

<sup>2</sup>Margaret Imber, "Practised Speech: Oral and Written Conventions in Roman Declamation," in J. Watson, ed., *Speaking Volumes: Orality and Literacy in the Greek and Roman World* (Leiden: Brill, 2001), 199–216 (pp. 209; 212). See further W. Martin Bloomer, "Schooling in persona: Imagination and Subordination in Roman Antiquity," *Classical Antiquity* 16 (1997): 57–78 and "A Preface to the History of Declamation: Whose Speech? Whose History?" in Thomas Habinek and Alessandro Schiesaro, eds., *The Roman Cultural Revolution* (Cambridge: Cambridge University Press, 1997), 199–216.

<sup>3</sup>Namely in *Major Declamations* 1; 2; 4; 5; 6; 7; 8; 9; 10; 11; 16; 17; 18; 19.

... naturae quidem ius esse, quod nobis non opinio, sed quaedam innata vis adferat, ut religionem, pietatem, gratiam, vindicationem, observantiam, veritatem. Religionem eam quae in metu et caerimonia deorum sit appellat; pietatem, quae erga patriam aut parentes aut alios sanguine coniunctos officium conservare moneat.<sup>4</sup>

This does not mean that *pietas* was stripped of its religious connotations, nor that its essence changed with its applications; rather, the specific sense of *pietas* depended on the context in which the word was used. Thus in *De Republica* (a political-philosophical work written 54–51 BCE) 6.16 we find *iustitiam cole et pietatem, quae cum magna in parentibus et propinquis, tum in patria maxima est: ea vita via est in caelum*,<sup>5</sup> while in *De Natura Deorum* (a religious-philosophical work from 45/44 BCE) the religious application of *pietas* explicitly returns: *est enim pietas iustitia adversus deos*.<sup>6</sup>

Touching upon all major areas of their lives, *pietas* was an essential value for the Romans. The first temple dedicated to the goddess Pietas was built as early as 181 BCE; soon she also appeared on numerous coins. From the second century BCE *pietas* was used consistently to account for Rome's expansionist politics.<sup>7</sup> But its embodiment was found in the Emperor Augustus, who avenged the murder of his adoptive father Julius Caesar and put an end to civil strife, and whose reign was celebrated in Vergil's epic about the feats of his legendary forebear *pius* Aeneas. Subsequent emperors often chose *pius* among their titles.<sup>8</sup>

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<sup>4</sup>Cicero, *De Inventione* 2.66: "And the law of nature is something which is implanted in us not by opinion, but by a kind of innate instinct; it includes religion, duty, gratitude, revenge, reverence, and truth. Religion is the term applied to the fear and worship of the gods. Duty warns us to keep our obligations to our country or parents or other kin." (tr. H. M. Hubbell); see further 2.161; also the contemporary and quite similar *Rhetorica ad Herennium* 2.19; but compare Quintilian, *Institutio Oratoria* 5.10.12 *Pro certis habemus ... ea in quae communi opinione consensus est: 'deos esse', 'praestandam pietatem parentibus'* ("Now we regard as certain ... things about which common opinion is unanimous: the existence of the gods, the duty of respecting parents," tr. D. A. Russell).

<sup>5</sup>"Revere justice and piety, which are great with respect to parents and other kin, but paramount with respect to your country: such a life is a way to heaven" (tr. C. Walker Keyes).

<sup>6</sup>"Piety is justice towards the gods" (tr. A. S. Pease). H. Wagenvoort, *Pietas* (Groningen-Den Haag: Wolters, 1924), 12, notes that this definition is a translation of Posidonius the Stoic's ἔστιν ἡ ὁσιότης δικαιοσύνη τις πρὸς θεούς.

<sup>7</sup>Wagenvoort, *Pietas*, cited in n. 6 above, pp. 18–20.

<sup>8</sup>J. Rufus Fears, "The Cult of Virtues and Roman Imperial Ideology," in *Aufstieg und Niedergang der Römischen Welt* II.17.2, pp. 827–948; 889–91.

*PIETAS* IN ROMAN RHETORIC

It is not a coincidence that definitions of *pietas* are often found in textbooks of rhetoric, for *pietas* plays an important part in rhetoric in several ways. Being a sacrosanct concept of universal application, it was an essential part of the philosophical background Cicero tried to (re-)claim for the orator:

Nec vero a dialecticis modo sit instructus sed habeat omnis philosophiae notos ac tractatos locos. Nihil enim de religione, nihil de morte, nihil de pietate, nihil de caritate patriae, nihil de bonis rebus aut malis, nihil de virtutibus aut vitiis, nihil de officio, nihil de dolore, nihil de voluptate, nihil de perturbationibus animi et erroribus, quae saepe cadunt in causas et ieiunius aguntur, nihil, inquam, sine ea scientia quam dixi graviter ample, copiose dici et explicari potest.<sup>9</sup>

Quintilian too wanted the orator to be versed in philosophy, but he focused rather more strongly on the contribution of ethics to the education of the orator as *vir bonus*:

An de iustitia fortitudine abstinencia temperantia pietate non plurima dicet orator? Sed ille vir bonus, qui haec non vocibus tantum sibi nota atque nominibus aurium tenus in usum linguae perceperit sed qui virtutes ipsas mente complexus ita sentiet, nec in cogitando laborabit et quod sciet vere dicet.<sup>10</sup>

But of course, if you managed to achieve and display a firm grasp of ethical values—including *pietas*—it did not only cause you to *be* a good man, but also to *appear* one. That is, it contributed to *ethos* (the image a speaker wishes to present of himself or his client), as Cicero was already well aware:

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<sup>9</sup>Cicero, *Orator* 118: "He should not confine his study to logic, however, but have a theoretical acquaintance with all the topics of philosophy and practical training in debating them. For philosophy is essential to a full, copious and impressive discussion and exposition of the subjects which so often come up in speeches and are usually treated meagrely, whether they concern religion, death, piety, patriotism, good and evil, virtues and vices, duty, pain, pleasure, or mental disturbances and errors" (tr. H. M. Hubbell). See further *De Oratore* 1.56; 2.67.

<sup>10</sup>*Institutio* 12.2.17: "Will not the orator have a great deal to say about Justice, Courage, Abstinence, Temperance, and Piety? But the good man, who does not merely know these things by word and name, and has not simply heard them with his ears in order to repeat them with his tongue, but has really embraced the virtues themselves in his mind and come to have virtuous sentiments—he will not have any problems in ordering his thoughts, and will speak out frankly what he knows."

Valet igitur multum ad vincendum probari mores et instituta et facta et vitam eorum, qui agent causas, et eorum, pro quibus, et item improbari adversariorum. ... Facilitatis, liberalitatis, mansuetudinis, pietatis, grati animi, non appetentis, non avidi, signa proferri perutile est.<sup>11</sup>

He gives a splendid illustration of how he uses *pietas* to furnish both himself and his client with the right *ethos* in *Pro Plancio* 29:

Omitto illa quae, si minus in scaena sunt, at certe, cum sunt prolata, laudantur, ut vivat cum suis, primum cum parente—nam meo iudicio pietas fundamentum est omnium virtutum—quem veretur ut deum—neque enim multo secus est parens liberis—amat vero ut sodalem, ut fratrem, ut aequalem.<sup>12</sup>

Not only *ethos*, but also *logos* (argument) and *pathos* (emotion) could be buttressed by the use of *exempla* in which *pietas* figures prominently. For lazy speakers, Valerius Maximus in the early first century CE put together a collection of anecdotes; its fifth book is almost entirely made up from *exempla* concerning *pietas*. Apart from *De pietate erga parentes et fratres et patriam* (5.4) we find 5.5 *Fraterna benivolentia*; further 5.6 *Pietas patriae*; 5.7 *De parentum amore et indulgentia in liberos*; 5.9 *De parentum adversus suspectos liberos moderatione*.

In argument it was expedient if one could prove that one had acted from *pietas*. For precisely because it was a virtue which resorted under *ius naturae*, it was fundamental and unassailable and put those who could prove that they possessed, or acted from, *pietas*, in the right. This meant that it could furnish arguments for juridical speeches in cases resorting under the *constitutio iuridicalis absoluta*, which occurred when there was no doubt about a particular act or its perpetrator, but, as the *Rhetorica ad Herennium* defines it, *cum id ipsum, quod factum est, ut aliud nihil foris adsumatur, recte factum esse dicemus*.<sup>13</sup> The example given is known from Roman history:

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<sup>11</sup>*De Oratore* 2.182: "A potent factor in success, then, is for the characters, principles, conduct and course of life, both of those who are to plead cases and of their clients, to be approved, and conversely those of their opponents condemned. . . . It is very helpful to display the tokens of good-nature, kindness, calmness, loyalty and a disposition that is pleasing and not grasping or covetous" (tr. H. Rackham).

<sup>12</sup>"I omit those things which are less in the limelight but are certainly praised when they are publicized, how he lives with his people, first of all with his parent—for in my judgement *pietas* is the foundation of all virtues—whom he venerates like a god—and indeed a parent is not very different from a god to his children—and loves like a companion, a brother, a contemporary" (tr. N. H. Watts).

<sup>13</sup>*Rhetorica ad Herennium* 1.24: "It is an Absolute Issue when we contend that the act in and of itself, without our drawing on any extraneous considerations, was right"

*Mimus quidam nominatim Accium poetam compellavit in scaena. Cum eo Accius iniuriarum agit. Hic nihil aliud defendit nisi licere nominari eum, cuius nomine scripta dentur agenda.*<sup>14</sup> Cicero's example is a little more exotic, but still based on historical facts. It concerns the Thebans being charged, before the Amphictyons (a religious council), with putting up a trophy after defeating the Spartans at Leuctra.<sup>15</sup>

Quintilian is the first to mention *pietas* explicitly in connection with his definition of this status, which he denotes as *qualitas absoluta* and regards as eminently sustainable:

Est enim de re sola quaestio, iusta sit ea necne. Iustum omne continetur natura vel constitutione. Natura, quod fit secundum cuiusque rei dignitatem. Hinc sunt pietas fides continentia et alia.<sup>16</sup>

His examples of the status are striking: *Abdicatur aliquis quod invito patre militarit, honores petierit, uxorem duxerit: tuemur quod fecimus.*<sup>17</sup> Although these things may have happened in real life, they remind one at once of course of Sophistopolis.<sup>18</sup> And this brings us to *pietas* in Roman declamation.

## PIETAS IN THE MAJOR DECLAMATIONS

Since the concept of *pietas* could contribute to *logos*, *ethos*, and *pathos*, it was an excellent motif to employ in declamation as a rhetorical exercise. And given that it concerned the fulfilment of duties to all that was paramount in the lives of the Roman elite—

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(tr. H. Caplan). See also Cicero, *De Inventione* 2.62 (*constitutio (generalis) negotialis*); cf. *De Partitione Oratoria* 42.

<sup>14</sup>*Rhetorica ad Herennium* 1.24: "A certain mime abused the poet Accius by name on the stage. Accius sues him on the ground of injuries. The player makes no defence except to maintain that it was permissible to name a person under whose name dramatic works were given to be performed on the stage." The mime was in fact condemned.

<sup>15</sup>The battle of Leuctra took place in 371 BCE; see e.g. Cornelius Nepos, *Epaminondas* 7; Xenophon, *Hellenica* 6.4.15 mentions a trophy.

<sup>16</sup>*Institutio* 7.4.5–6: "The only question concerns the act: is it just or not? All justice rests either (1) on nature or (2) on convention. (1) 'Nature' includes whatever is done because of the intrinsic value of the particular action. Under this head come piety, good faith, self-control, and the like."

<sup>17</sup>*Institutio* 7.4.4: "A son is disinherited because he has served as a soldier, sought office, or married, against his father's wishes. We defend what we did."

<sup>18</sup>*Abdicatio* was the declamatory equivalent of *exhereditatio* (disinheritance); see *Institutio* 7.4.11. *Abdicatio* is prompted by military service in Seneca, *Controversia* 1.8; by marriage in *Controversiae* 1.6 and 5.2; *Declamatio Minor* 257; *Institutio* 11.2.82.



gods, family and state—it stands to reason that it was also useful for the other two functions of declamation, i.e. for declamation as an autonomous literary genre and as an exercise in situational ethics. It will hardly come as a surprise, then, that out of the 291 declamations<sup>19</sup> we have left, 78 have a substantial concern with *pietas*. What is remarkable, however, is the type of *pietas* involved: there are only three *controversiae* in which *pietas* towards the gods is at stake,<sup>20</sup> and just another three in which *pietas* towards the state is a central issue.<sup>21</sup> In other words, the remaining 72 *controversiae* are all concerned with *pietas* within the family.

This does not necessarily mean that the concept of *pietas* was narrowed down: rather, it was given a substance prompted by the themes of the *controversiae*, which more often than not involved family conflicts, usually between fathers and sons. This subject matter suited declamation's major target group: Rome's upper class youths, who attended the rhetorical schools in large numbers. Although they belonged to the upper strata of society, they occupied awkward positions in their private lives: they were in every respect subject to their fathers' *patria potestas*. In practice, this meant that they were not legally entitled to possessions, that their fathers could order them to marry or divorce at will, and were even allowed to kill them with impunity (*vitae necisque potestas*). It is quite natural, then, that such unequal proportions of power left their mark on declamatory themes. In fact, the relationship between father and son is of major importance in 125 of the 291 examples we have left, and in no fewer than 115 of these it is a relationship marred by enmity, misuse of power, or downright hatred. The assignment of such themes afforded put-upon sons the opportunity to take on the role of son to work off their frustrations, or the role of father to enjoy a taste of the absolute power in store for them once they themselves were

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<sup>19</sup>I restrict myself to the four extant collections of *controversiae* (mock-forensic speeches), leaving aside the seven *suasoriae* (declamations in the *genus deliberativum*) preserved by Seneca the Elder.

<sup>20</sup>It is made an independent issue in only two. They are Seneca, *Controversia* 10.5.5 (about the famous fourth-century painter Parrhasius, who has allegedly maimed and tortured an Olynthian captive to have a convincing model for Prometheus) and *Minor Declamation* 323 (an Athenian priest dedicates a temple destroyed and rebuilt by Alexander the Great). Note that both subjects are set in a distant Greek past. In addition, *Major Declamation* 12 contains a brief reference to *impietas* incurred through cannibalism.

<sup>21</sup>They are *Minor Declamations* 254; 305; 352. In three others (*Minor Declamation* 315; Seneca, *Controversiae* 1.7 and 7.7) *pietas* towards the state is an issue, but one which is overshadowed by *pietas* within father-son relationships.

*patresfamilias*.<sup>22</sup> Their fathers, on the other hand, who liked to declaim in competition with each other and with teachers of rhetoric in theatres and literary salons, could speak to reaffirm their social status or to probe the limits of what was socially and morally acceptable. Of course declamatory family dramas often provided roles for other family members as well—mainly mothers, daughters and brothers—while power conflicts were also explored in different relationships, such as rich man vs. poor man. However, father-son relationships predominate in all four collections. And, tellingly, they occur in 52 of the 72 declamations concerned with *pietas* in family relations.

In the *Major Declamations* these tendencies are exceptionally strong. In the first place, a relationship between father and son(s) is an issue in no fewer than thirteen of the nineteen *controversiae* the collection comprises. But in only two of these is their relationship uncomplicated and peaceful; the others abound with fear, hatred, cruelty and jealousy.<sup>23</sup> In two of these, the *controversia* arises within the exclusive relationship of father and son (*Major Declamations* 4 and 17), but in most declamations it occurs in a three-cornered relationship between father, son and a third party. This third party is either the mother (6, 8, 10, 18, and 19), or a stepmother (1 and 2), or another son (5) or a friend (9). Secondly, if we add to this number *Major Declamation* 16, which involves a triangle of mother, son and friend, we have at the same time identified all *Major Declamations* in which *pietas* is an important concept.

The significance attributed to *pietas* and the importance attached to it in a given *controversia* depend on its theme. If it centres on a

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<sup>22</sup>For father-son relationships, *patria potestas*, and *vitae necisque potestas* in Roman declamation, see L. A. Sussman, "Sons and Fathers in the Major Declamations Ascribed to Quintilian," *Rhetorica* 13 (1995): 179–92; M. E. Vesley, "Father-Son Relations in Roman Declamation," *Ancient History Bulletin* 17 (2003): 158–80; M. Lentano, "Un nome più grande di qualsiasi legge: Declamazione latina e *patria potestas*," *Bollettino di studi latini: periodico quadrimestale d'informazione bibliografica* 35 (2005), 558–89; B. M. C. Breij, "*Vitae necisque potestas* in Roman Declamation," *Advances in the History of Rhetoric* 9 (2006): 55–81, and *The Eighteenth and Nineteenth Declamations Ascribed to Quintilian: a Commentary* (Diss. Radboud Universiteit Nijmegen, 2007), 45–62.

<sup>23</sup>Fathers and sons in *Major Declamations* 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 17, 18, 19. Two favourable exceptions: in *Major Declamation* 7 a poor father offers himself for torture so as to make his accusation of his son's rich murderer convincing; in *Major Declamation* 11 a father asks to be killed instead of his children. In both cases, a harmonious relationship is taken for granted; the *controversia* is between rich and poor. *Major Declamation* 4 is a doubtful case, but I feel that the son's dark impulses to kill his father are too strong for it to be made an exception.

harmonious family, their *pietas* is taken for granted and there is little need to discuss or expatiate upon it. Of course it can be mentioned to enhance a speaker's *ethos* (and correspondingly detract from that of his opponent). Thus in the *narratio* of *Major Declamation* 7 the poor father describes how, just before being attacked by his rich enemy, he and his son were returning home: *tuebamur pauperem mutua pietate comitatum invicem sustinentes, invicem innixi*.<sup>24</sup> This brief phrase conveys a great deal: father and son were poor and vulnerable, but found comfort in their affectionate relationship. The rich man by contrast appears wanton and callous for attacking the endearing couple. In the *peroratio*, *pathos* is evoked by an apostrophe of *pietas* personified: *Nunc infelix ad nos, misera pietas, redi, quod fieri in ipsa orbitate non potuit, et vires, quas improvisus abstulit dolor, probatio restituet*.<sup>25</sup>

When *pietas* is bound up with the *controversia* proper, it figures more largely. In the remainder of this contribution, I shall concentrate on its three main occurrences, which are the following. In some *controversiae* the protagonists explore the limits of *pietas*: how much of it may be expected in a given situation? Or, conversely, at what point is it permissible to refuse others one's *pietas*? Further, a protagonist can be confronted by incompatible claims being laid to his *pietas*. Thirdly, involving the *status qualitatis*, a crime can be defined specifically as a violation of *pietas* or, on the contrary, defended as an act of *pietas*. I will furnish some examples of each instance; it will turn out that together they more than cover the three functions of declamation (educational, literary and ethical) and offer ample opportunity to apply *logos*, *ethos*, and *pathos*.

The issue of possible limits to *pietas* is illustrated especially aptly in *Major Declamation* 5, the theme of which recalls the biblical story of the prodigal son: two brothers, one dissolute and one frugal, are captured by pirates, and the dissolute one falls seriously ill. Their father scrapes together his modest savings and sets out to redeem them, but the pirates are not satisfied with the ransom and make him choose. The father takes his dissolute sick son, who dies on the way home. His prudent brother manages to escape, but when back, refuses to provide for his father, thereby contravening the law

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<sup>24</sup>7.3: "[W]e used to defend our poor company of two, sharing the responsibilities, while taking turns supporting and relying on one another" (all translations from the *Major Declamations* are taken or adapted from Sussman). For the declamation's theme, see n. 23 above.

<sup>25</sup>*Major Declamation* 7.13: "Unhappy, disconsolate fatherly love, return to me now. This could not occur during the very act of my loss—and yet the process of proof will restore the strength which my unanticipated grief robbed from me."

*Liberi parentes in egestate aut alant aut vinciantur* ("Children must either support destitute parents or be imprisoned").<sup>26</sup>

The speech is for the father and its central issue is of course: that this father, who could himself be accused of withholding *pietas* because he ransomed only one son and a rogue at that, is nevertheless entitled to *pietas* from his virtuous son.

Characteristically, the father's claim is based on two unequal assumptions. The first is that he has actually displayed an admirable amount of *pietas* throughout; the second, that there is no need for him to prove his *pietas*. In accordance with the first, he claims that his choice betrayed not a lack of *pietas*, but on the contrary an abundance of it: after admitting reluctantly but almost casually that he loved his good son better,<sup>27</sup> he presents his partiality as a lack of *pietas* for his dissolute son, and the ransoming is made to appear an act to make amends:

quis non putet audita condicione vincula me statim detraxisse languenti? oderitis licet confessionem meam, deliberavi. tenuit inter illos inexplicabiles doloris aestus, quam longum tenuit pietas misera consilium, et, quod numquam satis manibus filii, numquam satis excusabo conscientiae meae, non statim mihi ille deficiens unicus fuit.<sup>28</sup>

Further on a *locus communis* with a daring twist at the end explains the essence of a father's *pietas* for his children and accounts for this father's choice:

par est in omnes liberos eademque pietas, sed habet in aliquo plerumque proprias indulgentiae causas, et salva caritatis aequalitate est quiddam, per quod tacito mentis instinctu singulos rursus tamquam unicis amemus ... quosdam magis severitas probitasque commendat; in quibusdam diliguntur impatientius calamitates, et damna corporum debilitatesque membrorum notabilius miseratione complectimur. salva est

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<sup>26</sup>For this declamatory law see Breij, *Commentary*, cited in n. 22 above, p. 74 n. 189 with refs. It had an authentic basis in the Greek γράφη κακώσεως τῶν γονέων and inspired an actual Roman law under Antoninus Pius (emperor 138–61).

<sup>27</sup>In 5.2.

<sup>28</sup>*Major Declamation* 5.4: "Who would not suppose that after I heard the terms I at once stripped away my ailing son's chains? Although my admission may displease you, I had to think it over. Amid these inexpressible surges of grief how long, yes, how long a debate did my pathetic emotions of love hold? And here's something I will never adequately explain away to my son's ghost, and never to my own guilty conscience: that son of mine who was sinking fast was not immediately in my judgment my only son."

tamen universitas, cum quicquid in ali<qu>o cessare creditur, in altero restituit alter affectus.<sup>29</sup>

But the father also manages to turn the tables on his son with a tart *sententia*: *eum tantum fratrem putes amari magis, quem non ames*,<sup>30</sup> and the speech begins with a vitriolic *praeteritio*, in which he states that the surviving son has only himself to blame for his father's choice:

utcumque igitur, iudices, poteram redemptionis illius reddere de praesenti iuvenis impietate rationem, et mihi crudelitas ista praestabat, ut filium viderer elegisse meliorem, non utor tamen occasionis huius invidia, nec quicquid miserae pietatis impatientia feci, querela malo defendere.<sup>31</sup>

From these passages it becomes clear at once that this *controversia* answers to all three functions of declamation. There is plenty of room for exercise in *logos* (the *locus communis* in 5.12 and the *relatio criminis* in 5.1), *ethos* (the son's *ethos* is efficiently damaged in 5.11 and 5.1; that of the father is bolstered in the *locus communis* in 5.12 and the "confession" in 5.4; note how he uses *pietas* there to refer to himself metonymically), and *pathos* (note especially the pathetic style in 5.4). Its literary character comes to the fore in the *pathos* of 5.4 and in the *locus communis* 5.12—especially in the paradoxical *sententia* that concludes it. Finally, all passages have in common that they provide food for thought about sibling rivalry and relations between fathers and sons, and invite the audience to explore the values attached to them.

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<sup>29</sup>Major Declamation 5.12: "There is a similar and identical love towards all one's children, but very often it has special reasons for favoritism towards one. Even with the equality of our love intact, there is something undefinable on account of which in the silent promptings of the heart we love each individual child in their turn as though they were an only child: ... some others a grave and righteous demeanor [recommends]; in some their misfortunes warm the heart when we can't bear to endure them, and through pity we embrace much more obviously their crippled and deformed bodies. Yet as a whole, a father's love is secure when what he believes is lacking in one child is supplied in another."

<sup>30</sup>Major Declamation 5.11: "You would only suppose a brother to be loved more, whom you yourself do not love."

<sup>31</sup>Major Declamation 5.1: "In any event, gentlemen of the jury, I was thereby able to provide a justification for ransoming that son by reason of this young man's neglect of his filial duty. His cruelty furnishes me with the evidence that I seem to have chosen the better son. Yet I shall not make use of the ill will engendered by this circumstance, nor do I choose to defend by means of a formal grievance whatever I did out of passionate, fatherly love."

This last aspect is present even more strongly in the father's second line of argument, based on the assumption that he does not need to prove his *pietas*:

Parentibus vero liberi non praestatis alimenta, sed redditis. quanto, dii deaque, breviora, quanto minora pro tot infantiae, tot pueritiae sumptibus, tam variis vel abstinentissimae iuventutis impendiis! . . . non est beneficium quod pascitis, sed est facinus quod negatis. Liberi parentes alant. pudet sacrorum nominum, pudet religionis humanae: hoc ergo lex erit? quid imprecer homini, quo primus fecit, ut pietate<m>iuberemus!<sup>32</sup>

It is argued here that a father has an absolute and unassailable right to be supported by his children. In fact a father's absolute rights are often a subject of discussion in declamation,<sup>33</sup> but it should be noted that the declaimers—sometimes precisely by attacking excesses and excrescences—usually endorse the established order.<sup>34</sup>

Because the father in *Major Declamation* 5 is forced to choose between his sons, he also has to deal with a second category of *pietas* problems: that of being confronted with incompatible claims from different persons. Although he asserts that he has a fundamental right to be supported by his surviving son, more than half of his speech<sup>35</sup> is a justification for letting one claim prevail over the other. Of course the dilemma gives rise to literary *pathos*,<sup>36</sup> but it also explicitly offers the audience situational ethics by first positing the hypothesis that both young men were healthy, then using the figure of *communicatio*:

Suadete, quid faciam; quid dicitis? ita pietas est abire, discedere, irasci scilicet, queri et invidiam facere piratis? vos interrogo, liberi, vos, par-

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<sup>32</sup>*Major Declamation* 5.7: "Indeed, you, as children, do not provide our support, but, rather, you are paying us back. God knows how much briefer and how much less are these expenses compared to so much for their infancy, for their childhood, and to such numerous and varied outlays for even the most frugal young manhood! . . . it isn't a good deed for you to feed me, but it is a crime for you to deny me this. The law enjoins children to support their parents. It is a disgrace on sacred designations, on human veneration. So this will be law? What curse shall I call down on the man who first forced us to command respectful conduct from our children?"

<sup>33</sup>See e.g. F. Lanfranchi, *Il diritto nei retori romani: Contributo alla storia dello sviluppo del diritto* (Milano: Giuffrè, 1938), 246–51; Vesley, "Father-Son Relations," cited in n. 22 above, p. 173.

<sup>34</sup>See Breij, *Vitae necisque potestas*, cited in n. 22 above, esp. p. 71.

<sup>35</sup>5.9–21, i.e. 14 out of 26 Teubner pages.

<sup>36</sup>The father's plight is described in emotional terms e.g. in 5.4, cited above with note 28.

entes: non ergo facinus est ideo neutrum redimere, quia utrumque non possis? egregia pietas aequare liberos iustitia desperationis!<sup>37</sup>

Similar dilemmas are found in *Major Declamation 2* (as a side issue: the son had been faced with the choice whether to rescue his father or his mother from a burning house) and *Major Declamation 8*, where a father has vivisection performed on one ailing twin to rescue the other. But since the author (who also wrote *Major Declamations 2* and *5*) here opts for voicing the mother's accusation of the father, the dilemma makes way for *amplificatio* in the form of scathing *epiphonemata*, true to declamatory form in their antitheses and paradoxes. Thus we find, for example:

novum, iudices, et incognitum rebus humanis audite facinus: iam paricidium pietas, caritas et impatientia orbitatis admittit! malo odium, querelas, execrationes, quam ut quis liberos affectu, quo servantur, occidat.

And: *non est tanta pietas servare filium quantum facinus occidere*.<sup>38</sup>

Two rivals for *pietas* can also make different claims. *Major Declamation 6* has a father who has been captured by pirates and a mother who has lost her eyesight weeping for him. Against his mother's wishes their son changes places with his father; later, when his corpse has been washed ashore, his mother refuses to have him buried.<sup>39</sup> Burial is argued for by his father, who combines arguments in favour

<sup>37</sup> *Major Declamation 5.12*: "Advise me what to do—what do you say? Is it in keeping with a father's duty just to go away and leave, to be angry, of course, to complain, and to stir up hatred against the pirates? I ask you, both children and parents, isn't it criminal then to ransom neither since you couldn't ransom both? Yes, it's a great display of fatherly devotion to treat your children with even-handed abandonment of hope." For the figure of *communicatio* (making the judges or even your opponent share your quandary) see e.g. Cicero, *De Oratore* 3.204; Breij, *Commentary*, cited in n. 22 above, p. 350.

<sup>38</sup> 8.8: "Gentlemen of the jury, hear of a crime unprecedented and unknown in human history: now family loyalty, love, and the inability to endure the loss of a son commits a murder! I prefer hatred, complaints and curses rather than to have someone kill children with the love by which they are saved"; and 8.15: "It's no great display of your devotion to save a son, as much as it is a crime to kill one."

<sup>39</sup> In accordance with the declamatory law *qui in calamitate parentes deseruerit, insepultus abiciatur* ("The man who deserts his parents in distress shall have his corpse cast out unburied"), for which see Thomas Zinsmaier, *Der von Bord geworfene Leichnam: die sechste der neunzehn größeren Deklamationen, Einleitung, Übersetzung, Kommentar* (Frankfurt et al.: Peter Lang, 1993), 14–26. Compare the very similar *Major Declamation 16*, in which an identically afflicted mother tries to stop her son from returning to the tyrant who had captured him because otherwise his best friend will be punished.

of his son's *ethos* with a characteristically pithy and antithetical style, e.g. *invenit tamen ingeniosa pietas et utrique subvenit dispendio sui: ipse venit ad patrem, me remisit ad matrem*.<sup>40</sup> Also note the paradox in a *prosopopoeia* of the son: *fas est mihi etiam invitis parentibus pie facere*.<sup>41</sup> In fact, the father's plea rests on two assumptions, which both provide ample space for ethical disputation: firstly, the son did his duty to both parents; secondly, the mother lacks proper maternal feeling. Again, however, the father's absolute rights over his son loom in the background:

Poteram quidem fortiter dicere: 'pater iussi. hoc nomen omni lege maius est; tribunos deducimus, candidatos ferimus; ius nobis vitae necisque concessum est. si non fecerit quod iubeo, non deferam illum ad sepulchrum.' necesse habuit parere: non deseruit, sed abductus est . . . sint sane iura paria, sedeatque medius inter duo filius iudex; non comparabo personas, quamvis apud omnes gentes plus iuris habeat pater. sit sane natura communis; non inputabo quod nomen dedi, quod familiam, quod impensas, quod, dum illi adquiro, captus sum . . . fuerint quidem ista facienda, sed ego ius meum reprimō.<sup>42</sup>

The insistent *praeteritiones* seem to boost the father's *ethos*, because he appears to waive his rights, but of course what he actually does is to emphasise them, offering reflection once more on his unassailable position.

The final use of *pietas* in the *Major Declamations* I would like to discuss is one in which it occurs as an argument for *qualitas absoluta*. This is the case in *Major Declamations* 18 and 19, the trickiest accusation and defence in the most outrageous case of the entire collection. A father suspects his son of conducting an incestuous affair with his (the son's) mother. He interrogates the son by means

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<sup>40</sup>6.2–3: "Yet his ingeniously clever sense of duty found a solution and assisted the two of us, but to his own detriment. He came to his father's aid and sent me back to his mother." Note, again, the metonymous use of *pietas*.

<sup>41</sup>6.6: "I am authorized, even if my parents oppose it, to do my duty as a son."

<sup>42</sup>6.14–15: "If nothing else I could say with a powerful claim: 'As your father, I have given you an order. This title is stronger than any law. We fathers punish sons who are tribunes and flog candidates for public office. We have the power of life or death over our children. If he does not do as I order, I will not grant him burial.' He was forced to obey me. He didn't abandon you, he was forced away from you. . . . But let's concede that our legal claims are equal, and let our son sit as a judge between the two of us. I will not compare our separate roles, although all nations give fathers a higher legal standing. By all means, let his relationship to us be on an equal footing. I will not claim my credit for giving him his name, a family, money, and for being captured while adding to my estate for his ultimate benefit. . . . Indeed, those claims just cited should have been made, but I will suppress my legal right to them."



of torture so severe that the young man dies on the rack. Afterwards the father refuses to divulge whether his son confessed or indeed said anything at all during the torture. In *Major Declamation* 19 he defends the killing of his son<sup>43</sup> as resorting under *qualitas absoluta*, because it was an act of mercy, inspired by *pietas*:

et ego amavi filium meum, non oculis, non infirmitate, non lacrimis, sed viribus, dolore, patientia. unicum, quem, si acie clausisset hostis, vicaria morte servassem, si subitum cinxisset incendium, extulissem relictā meorum parte membrorum, eripui malignitati, abstuli famae. habeo, quod inpuem tibi, natura, pietas: rem difficillimam feci, quod non me potius occidi.<sup>44</sup>

*Pathos* abounds and *ethos* too—or so it appears. But if the killing was an act of *pietas*, it was righteous; but if it was righteous, the son must have been guilty of incest. In other words, the passage is in fact a highly figured piece of innuendo.

In *Major Declamation* 18, the accusation, the father's ruses are exposed and defused. The killing is condemned as a crime against *pietas*: the reverse side of *qualitas absoluta*. As a result of the murder, the advocate states, *consumpta est paterni nominis religio, omnis pietatis sublata reverentia*.<sup>45</sup> A passionate—and surprisingly modern—plea for spontaneous, guileless love makes for *ethos*:

prope est ab incesto timere, ne fiat. malo simplicitatem, quae non vereatur infamiam, malo nudos adfectus inconsultamque pietatem; nihil de se fingi, nihil credant posse narrari.<sup>46</sup>

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<sup>43</sup>The actual charge against him is not murder, but *mala tractatio* (maltreatment of a wife)—for his silence. This makes for a so-called *controversia figurata*, in which the official accusation (or defence) serves as a vehicle for other accusations and defences: in *Major Declamations* 18 and 19, both murder and incest. See B. M. C. Breij, "Pseudo-Quintilian's Major Declamations 18 and 19: two controversiae figuratae," *Rhetorica* 24 (2006): 79–105.

<sup>44</sup>19.4: "I for my part also loved my son, not with kisses, with a woman's weakness, or with tears, but with manly strength, my anguish, and my endurance. I rescued from malice and withdrew from infamy an only son whom I would have saved by my own death in his place had the enemy surrounded him in battle, whom I would have rescued at the cost of losing part of my own body had a sudden fire engulfed him. I also have what I might ascribe to you—natural ties of blood and parental love: I did a most difficult thing since I didn't kill myself instead."

<sup>45</sup>18.14: "Regard for fatherhood is destroyed and all respect for family ties annihilated."

<sup>46</sup>18.10: "The closest thing to incest is to fear it will happen. I prefer the naturalness which doesn't dread disgrace, I prefer bared affections and family love that need no circumspection. Let people believe nothing can be badly construed and nothing be made the subject of gossip about themselves."

But at the same time the author defies the limits of what could be considered morally acceptable, continuing: *teneat insatiabiliter, avide; tanti fama non est, ut amet filium mater sollicitudine pudicae*.<sup>47</sup>

Motherly love is described in disturbingly erotic terms:

Me quidem, marite, si quis interroget, omnes matres liberos suos, tamquam adamaverint, amant. videbis oculos numquam a facie vultuque deflectere, comere caput habitumque componere; suspirare cum recesserint, exultare, cum venerit, conserere manus, pendere cervicibus, non o<s>culis, non conloquiis, non praesentiae voluptate satiar.<sup>48</sup>

Here we see how in declamation, transgression and inculcation of moral values can go hand in hand. This is only fitting for a genre so endlessly versatile that it can serve as an exercise in *logos*, *ethos*, and *pathos*, as literary entertainment, and as a way to explore ethical concepts.

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<sup>47</sup>18.10: "Let her hold him insatiably and eagerly; rumour is not so important that a mother should love her son, yet be anxious about her modesty."

<sup>48</sup>18.10: "Indeed, husband, if anybody were to ask me, all mothers love their children as though they have fallen in love with them. You will never see their eyes turn away from their appearance and their face, they comb their hair and adjust their clothing; she sighs when he leaves, rejoices when he returns, she clasps his hands in hers, she hangs from his neck, she is sated neither with his kisses, his conversation, or the pleasure of his company."